

(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Chiquet-Ehrismann <i>et al.</i>	)	Confirmation No: 1199
Serial No.:	10/509,009	)	Group Art Unit: 1643
Filed:	May 3, 2009	)	Examiner: Anne Gussow
For:	TENASCIN-W COMPOSITIONS AND USES THEREOF	)	Docket No. FM-05-US

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**SUPPLEMENTAL COMMUNICATION REGARDING PATENT TERM  
ADJUSTMENT REDETERMINATION UNDER WYETH (PLEASE  
CORRECT BEFORE ISSUANCE OF PATENT)**

Office of Patent Legal Administration  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicants respectfully request that the United States Patent Office redetermine the Patent Term Adjustment due on the above-identified U.S. patent application. The above-identified application is expected to issue as U.S. Patent No. 7,683,159, on March 23, 2010.

The reported PTA term of adjustment of 640 days reported on the Issue Notification is incorrect even though the Issue Notification considers the "B" delay separately. Under *Wyeth v. Kappos* (Case No: 2009-1120, January 7, 2010), the "B" delay is considered separately for PTA calculation purposes but takes into account any overlap between an "A" delay and a "B" delay. Thus, in this case, the Applicants, under 35 U.S.C. 154(b), are entitled to a total of 672 days, not 640 days. Here, the Applicants incur a B delay of 682 days of PTA which commences from the day after the three year pendency date of 09/24/2007 and ends on the RCE date of 8/06/2009, which tolls any further "B" delay. Moreover, it is believed that there is "A" delay of 6 days (i.e., from 04/30/2009 to 05/06/2009) which overlaps with the "B" delay of 682 days. Thus, the correct net PTA to be reported on the issued patent, after taking into account the applicants' delays of 152 days, a total "A" delay of 148 days, and the "A" delay overlap with the "B" delay, should be now 672 days.

If there are any other errors in the calculation of the Patent Term Adjustment, the Applicants respectfully request the PTO to correct. The Applicants' representative believes that this calculation of 672 days is correct, based upon a reading of the rules and case law. Should this not be the case, the Applicants respectfully request a correction.

Applicants do not believe that there should be a fee associated with this communication. Should this not be the case, and there are any other additional fees are presently required, or required during the pendency of this application, the Commissioner is authorized to charge any additional fees, if needed, or credit any overpayment, to deposit account No. 50-4255. If there are any questions, especially ones relating to payments or this response, please contact the undersigned, or if the undersigned is not available, please contact a representative of the firm. Please do not leave voicemails at the undersigned's phone number.

Respectfully submitted,

Date 3/9/10

Jay S. Pattumudi

Jay S. Pattumudi  
Reg. No. 52, 104  
Hoxie & Associates LLC  
75 Main Street, Suite 301  
Millburn, NJ 07041  
973-912-5232 phone  
973-912-5236 fax



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,489	03/23/2010	7683139	FM-05-US	1199

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HOXIE & ASSOCIATES LLC  
75 MAIN STREET, SUITE 301  
MILLBURN, NJ 07041

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## ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

### Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 640 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

### APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants)

Ruth Chiquet-Ehrismann, Reinach, SWITZERLAND;  
Arnaud Scherberich, Riedisheim, FRANCE;

DOCKETED  
Ruth & Arnaud  
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